

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Herbert Demond York,)	C/A No. 1:17-cv-02536-DCC
)	
Plaintiff,)	
)	
vs.)	
)	
Ms. Clutch, Ofc. Daniels,)	ORDER
)	
Defendants.)	
_____)	

This matter is before the Court on Plaintiff's Complaint alleging violations of civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings and a Report and Recommendation ("Report"). On October 11, 2017, the Magistrate Judge ordered Plaintiff to provide certain documents to bring the case into proper form for evaluation for possible service of process. ECF No. 7. Plaintiff did not respond to the Order and was given another opportunity to provide the requested documents. ECF No. 11. Plaintiff partially complied with the Order. *See* ECF No. 13. A Third Proper Form Order was issued on November 21, 2017; Plaintiff failed to respond to the Order. ECF No. 16. Plaintiff was also directed to advise this Court in writing of any change of address; Plaintiff was specifically warned that failure to comply with the Order could subject the case to dismissal. ECF Nos. 7, 11, 16. On December 12, 2017, the Magistrate Judge issued a Report recommending that the Complaint be dismissed for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. ECF No. 18.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has

no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation that the Complaint be dismissed with prejudice for failure to prosecute. Accordingly, the Court adopts the Report by reference in this Order. The Complaint is dismissed with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

January 4, 2017
Spartanburg, South Carolina